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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,803	04/18/2005	Thomas McGee	102792-129 (30056 US/3)	3621

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NORRIS, MCLAUGHLIN & MARCUS  
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NEW YORK, NY 10022

EXAMINER
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KUMAR, PREETI

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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12/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,803	<b>Applicant(s)</b> MCGEE ET AL.	
	<b>Examiner</b> Preeti Kumar	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 11-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 11-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Final Rejection***

1. Claims 1, 2, 11-27 are pending. Claims 16-17 are amended in the response filed 10/1/2007.

### ***Response to Amendment***

2. The rejection of claims 16 and 17 under 35 U.S.C. 112, second paragraph is withdrawn in light of Applicant's amendment to the claims.
3. The rejection of claims 1, 2, 11-27 under 35 U.S.C. 103(a) as being unpatentable over Kuwayama et al. (US 4,382,11) in view of Sato et al. (US 4,233,161) is maintained.

### ***Response to Arguments***

Applicant's arguments filed 10/1/2007 have been fully considered but they are not persuasive. Applicants urge that neither the Kuwayama document nor the Sato document appear to be relevant, as neither of these teachers suggest the utility of their processes or their compositions in such a manner or in such an environment of use. Sago is wholly silent on this point. And Applicants urge importantly, Kuwayama fails to teach or suggest in any reasonable manner the use of a sublimable material as a carrier for further constituents. Indeed, it is reasonable to presume that at the end of his process, the sublimable material applied according to the Kuwayama would likely have completely dissipated and thus provide no useful treatment benefits to finished goods, or textiles.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the primary reference teaching of Kuwayama et al. teaches the claimed adamantane sublimable substance applied to fiber/yarn. The combination with Sato et al. is for the limitation to a fragrance, which Sato et al. teach adamantane mixed with perfume. Had the secondary reference taught application of adamantane and perfume to textile, it would have been the primary reference. The primary reference already teaches the application of adamantane to fibers/yarn and this teaching is properly combined with Sato et al.'s teaching that perfume can be incorporated into the similar adamantane sublimable composition taught by the primary reference. One of ordinary skill would have been motivated to combine the teachings of Kuwayama et al. with that of Sato et al. since both references teach the analogous art of adamantane sublimable compositions and Sato et al. teach that adamantane sublimable compositions are carriers for perfume.

Applicants urge that Kuwayama et al. teach a method of application of the sublimable composition by no useful treatment benefits to finished goods, or textiles can be achieved since the sublimable material would likely have completely dissipated. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the

references. Furthermore, the instant claims are drawn to the delivery of adamantane to textile in a heated drier, and Kuwayama et al. teach deposition of the same adamantane sublimable substance by placement in an appropriate pot or evaporation chamber with subjection to heat which teaching encompasses the broad scope of the claimed dryer. See col.7, 1-5.

### ***Claim Rejections***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 11-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwayama et al. (US 4,382,11) in view of Sato et al. (US 4,233,161).

Kuwayama et al. teach a method of treating fibers such as yarn applying a sublimable lubricating substance to said fibers in an amount sufficient to impart lubricity, water repellency, and/or oil repellency to said fibers. The preferred sublimable compounds are endo-trimethylenenorbornane, trimethylnorbornane, cyclododecane, adamantane and camphor. The invention also includes novel yarns containing an effective amount of a sublimable lubricating substance. See abstract and table 1.

Kuwayama et al. teach that the sublimable lubricating substance is applied by contact treatment, a touch roll method and by heating or treating under reduced pressure to uniformly deposit the evaporated sublimable substance onto the yarn. The temperature and the pressure for use can be suitable determined depending on the type of the sublimable substance and yarns used. See col.5-6,ln.35-50.

Kuwayama et al. do not specifically teach the utility of a drier to deliver the sublimable substance. However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to arrive at a textile treatment delivery system wherein the sublimable substance is delivered by heating in a drier since the prior art teaching of Kuwayama et al. teach deposition of a sublimable substance by placement in an appropriate pot or evaporation chamber with subjection to heat which teaching encompasses the broad scope of the claimed dryer. See col.7, 1-5.

Kuwayama et al. do not specifically teach the delivery system comprising a fragrance in a sublimable carrier substance as required by the instant claim 1. However, Kuwayama et al. teach the delivery of fluoropolymers in a sublimable carrier substance to impart excellent water repellent and oil repellent properties. See col.7,ln.30-col.8,ln.10.

Sato et al. teach a sublimable composition comprising sublimable hydrocarbons and sublimable polar compounds, which is useful as a carrier for perfume. See abstract. Specifically, Sato et al. teach sublimable hydrocarbons include adamantane and cyclododecane. See col.2,ln.15-21.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the teachings composition of Kuwayama et al. with a fragrance in a sublimable carrier, as recited by the instant claims, because Sato et al. teach that adamantane and cyclododecane sublimable compositions are useful as a carrier for perfume and Kuwayama et al. teach the analogous adamantane and cyclododecane sublimable substances for application to textile. One of ordinary skill in

the art would be motivated to combine the teachings of Kuwayama et al. with that of Sato et al. since both references teach the analogous sublimable substances.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on 6:30 am-2:30 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner Preeti Kumar  
Art Unit 1796

/PK/

/Vasu Jagannathan/  
Supervisory Patent Examiner  
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